

EXHIBIT 5

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO. 6:17-cv-01000-GAP-DCI

**ALPHA TECHNOLOGY U.S.A.
CORPORATION, d/b/a FUTURECOW,**

Plaintiff,

v.

NORTHERN DAIRY EQUIPMENT, LTD.,

Defendant.

/

**DEFENDANT'S STIPULATION TO TRANSFER OF MATTER
TO EASTERN DISTRICT OF MICHIGAN**

Defendant, NORTHERN DAIRY EQUIPMENT, LTD. (“NDE”), hereby stipulates to the transfer of this matter to the Eastern District of Michigan, and states:

1. Plaintiff, ALPHA TECHNOLOGY U.S.A. CORPORATION, d/b/a FUTURECOW (“ALPHA”), has apparently conceded that this Court lacks personal jurisdiction over NDE, and has moved to transfer this matter to Wisconsin, in response to NDE’s jurisdictional motion to dismiss.

2. However, as more specifically set forth in NDE’s response to ALPHA’s transfer motion, and Defendant’s Declaration Responding to Court’s Questions in October 5, 2017 Notice of Hearing (filed with the Court November 16, 2017),¹ there exists no legal or factual basis for transfer of this matter to Wisconsin.

¹ Defendant’s Declaration inadvertently referred to the Court’s Notice of Hearing as having been entered on October 7, 2017.

3. There may, however, exist a basis for transfer of the case to the Eastern District of Michigan, based on NDE's admitted sale of 3 cleansing systems there.²

4. NDE therefore stipulates to the transfer of this matter to the Eastern District of Michigan, which would obviate the need to proceed with the November 29, 2017 hearing scheduled on NDE's motion to dismiss and ALPHA's transfer motion.

5. NDE's undersigned counsel confirmed NDE's stipulation to transfer to the Eastern District of Michigan to ALPHA's counsel on November 16, 2017. ALPHA's counsel responded on November 21, 2017, that ALPHA "is not willing to transfer the case to the Eastern District of Michigan."

WHEREFORE, Defendant, NORTHERN DAIRY EQUIPMENT, LTD., stipulates to the transfer of this matter to the Eastern District of Michigan.

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² NDE denies that any of its sales in Michigan infringed properly obtained patents. NDE has only admitted that it has sold three systems in Michigan since July of 2016.

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2017, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Elio F. Martinez
ELIO F. MARTINEZ, Jr.

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United States District Court, Middle District of Florida

Case No.:6:17-cv-01000-GAP-DCI

Alpha Technology U.S.A. Corporation v. Northern Dairy Equipment, Ltd.

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